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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/523,926

02/07/2005

Jan van Walraven

WALRAVEN3

1885

1444 7590 12/29/2008  
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EXAMINER

DUMAS, NKEISHA J

ART UNIT

PAPER NUMBER

3632

MAIL DATE

DELIVERY MODE

12/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,926	<b>Applicant(s)</b> VAN WALRAVEN, JAN	
	<b>Examiner</b> NKEISHA J. DUMAS	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 53-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 53-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The following correspondence is a non-final Office Action for application number 10/523,926, for a VIBRATION ISOLATING PIPE CLIP, filed on 2/7/2005. This correspondence is in response to applicant's reply filed on 1/18/2008. Claims 53-58 are pending.

#### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 56 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
4. Claim 56 recites the limitation "the form fact" in the sixth line therein. There is insufficient antecedent basis for this limitation in the claim.

#### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 53-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Walraven (EP 1,106,900 A1) in view of Funahashi (U.S. Pat. 3,342,911).

Regarding claims 53-55 and 58, Van Walraven teaches a vibration isolating pipe clip (1) comprising a rigid pipe clip body (2, 3) which is composed of one or more parts and is provided with securing means (7); a vibration isolating member (10) which bears against an inner circumference of the pipe clip body and is ultimately positioned between an outer circumference of the pipe and the pipe clip body (Fig. 1), wherein the vibration isolating member (13) is a porous vulcanized rubber with closed cavities and separating walls between them [0008, 0025], and where in the event of a reduction in the volume of the cavities under the influence of deformation of the vibration isolating member no significant pressure occurs inside the cavities [0025, 0032], but does not teach that the cavities are substantially unpressurized by dehydration of salt or a chemical which remains in the cavities or that the form factor of the isolating member is less than 0.2. Funahashi teaches a composite porous vulcanized rubber material with closed cavities (discrete bubbles) and separating walls between them where the cavities are substantially unpressurized by dehydration of salt which remains in the cavities (col.

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4, lines 8-14) as a step in the process of vulcanizing the rubber (see claim 1). It would have been obvious to one of ordinary skill in the art, at the time the invention was made, where the cavities of Van Walraven are substantially unpressurized by dehydration of salt or a chemical which remains in the cavities in order to manufacture the porous rubber material by the vulcanization process. The Examiner notes that the term "vulcanized" recited in the claim is inherent in the process of manufacturing raw rubber into processed rubber.

Further, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to make the vibration isolating member of the pipe clip with a form factor of less than 0.2 since the discovery of an optimum value of a result effective variable involves only routine skill in the art.

Although claim 56 contains purely functional limitations, it is nonetheless rejected because, as best understood, Van Walraven and Funahashi teach a vibration isolating member that has a form factor defined by the quotient of the surface area which is subject to load and the free surface area, and in which the cavities significantly reduce the form factor.

Regarding claim 57, Van Walraven and Funahashi teach the clip of claim 56, but does not teach that the form factor of the isolating member is less than 0.2. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to make the vibration isolating member of the pipe clip with a form factor of less than 0.2 since the discovery of an optimum value of a result effective variable involves only routine skill in the art.

***Response to Arguments***

8. Applicant's arguments with respect to claims 53-58 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NKEISHA J. DUMAS whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nkeisha J. Dumas/  
Examiner, Art Unit 3632  
December 18, 2008

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/J. ALLEN SHRIVER II/

Supervisory Patent Examiner, Art Unit 3632